



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB4739

by Rep. Sara Feigenholtz

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Voluntary Placement for Children with Serious Mental Illnesses or Developmental Disabilities Act. Provides that the Department of Children and Family Services, the Division of Mental Health within the Department of Human Services, the Division of Developmental Disabilities within the Department of Human Services, and the Department of Healthcare and Family Services shall enter into an interagency agreement, the purpose of which is to prevent children in psychiatric lock-out from entering the child welfare system for a time-limited, out-of-home placement for treatment of the child's serious mental illness, serious emotional disturbance, or developmental disability when there is no evidence of abuse or neglect of the child, and place the child in a time-limited out-of-home placement under the most appropriate State agency. Provides that the Department of Children and Family Services shall establish a voluntary placement program, in which a child is voluntarily placed into the care of the Department of Children and Family Services under a voluntary placement agreement for the purpose of out-of-home placement of the child for the treatment of a serious mental illness, serious emotional disturbance, or developmental disability. Provides that the out-of-home placement may not exceed 180 days without juvenile court approval. Provides that the Department of Children and Family Services shall refer all cases voluntarily placed under the Act to the Community and Residential Services Authority for review as soon as the child is voluntarily placed to enable the Authority to annually review why cases were voluntarily placed in the Department of Children and Family Services rather than routed to a more appropriate agency for treating the child's disability.

LRB098 17877 RLC 53001 b

1 AN ACT concerning children.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Voluntary Placement for Children with Serious Mental Illnesses  
6 or Developmental Disabilities Act.

7 Section 5. Purpose. It is becoming tragically more common  
8 for families with a child with a serious mental illness,  
9 serious emotional disturbance, or developmental disability to  
10 turn to the Department of Children and Family Services for  
11 time-limited out-of-home placement of the child when all  
12 avenues of effective, sustained treatment have been  
13 foreclosed. When a child enters the child welfare system under  
14 the Department of Children and Family Services solely to obtain  
15 treatment of the child's disability in an out-of-home  
16 placement, the child's parents are often forced to relinquish  
17 custody despite the absence of abuse or neglect, resulting in a  
18 legal separation of the family and an abuse and neglect  
19 investigation by the Department of Children and Family  
20 Services. This causes irreparable damage to the child and the  
21 family unit, and takes the Department of Children and Family  
22 Services resources away from its core mission of protecting  
23 abused and neglected children in this State. The child welfare

1 system is not the appropriate system of care for a child when  
2 there is no abuse or neglect. These children should be  
3 receiving services under the agency that provides care and  
4 treatment for their mental illness or developmental  
5 disability. Therefore, this Act: (1) requires the Department of  
6 Children and Family Services and other relevant State agencies  
7 to enter into an interagency agreement to route families who  
8 are undergoing a psychiatric lockout of a child, to the  
9 appropriate State agency that oversees the services that will  
10 treat the child's primary disability; and (2) enables families  
11 who are relegated to the child welfare system for out-of-home  
12 treatment of a serious mental illness, serious emotional  
13 disturbance, or developmental disability to remain intact  
14 while the child is in the out-of-home placement.

15 Section 10. Definition. As used in this Act:

16 "Children" has the meaning ascribed to it in Section 5 of  
17 the Children and Family Services Act.

18 "Psychiatric lock-out" means when a parent or guardian  
19 refuses to take a child home from a psychiatric hospital or  
20 similar facility when the hospital or facility indicates the  
21 child can be treated at home and the parents or guardian refuse  
22 to take the child home because of a reasonable fear the child  
23 will harm himself or herself or other family members.

24 Section 15. Interagency agreement for children in

1 psychiatric lockout.

2 (a) The Department of Children and Family Services, the  
3 Division of Mental Health within the Department of Human  
4 Services, the Division of Developmental Disabilities within  
5 the Department of Human Services, and the Department of  
6 Healthcare and Family Services shall enter into an interagency  
7 agreement, the purpose of which, is to prevent children in  
8 psychiatric lock-out from entering the child welfare system for  
9 a time-limited, out-of-home placement for treatment of the  
10 child's serious mental illness, serious emotional disturbance,  
11 or developmental disability when there is no evidence of abuse  
12 or neglect by the child's parents or guardian, and place the  
13 child in a time-limited out-of-home placement under the most  
14 appropriate State agency.

15 (b) The interagency agreement shall include the criteria  
16 under the agency the child will receive time-limited  
17 out-of-home services (the Department of Children and Family  
18 Services, the Division of Mental Health within the Department  
19 of Human Services, the Division of Developmental Disabilities  
20 within the Department of Human Services, or the Department of  
21 Healthcare and Family Services) depending on the child's  
22 primary disability and the child's care needs, the process by  
23 which the child is placed under the care of the appropriate  
24 agency to treat the child's condition or conditions and each  
25 agency's responsibilities throughout this process, including  
26 budgetary responsibility.

1           (c) An interagency agreement shall be executed within 6  
2 months after the effective date of this Act.

3           Section 20. Voluntary placement of children with a serious  
4 mental illness, serious emotional disturbance, or  
5 developmental disability.

6           (a) The Department of Children and Family Services shall  
7 establish a voluntary placement program, in which a child is  
8 voluntarily placed into the care of the Department of Children  
9 and Family Services under a voluntary placement agreement for  
10 the purpose of out-of-home placement of the child for the  
11 treatment of a serious mental illness, serious emotional  
12 disturbance, or developmental disability.

13           (b) The Department of Children and Family Services shall  
14 make reasonable efforts with the child's parents or legal  
15 guardian to prevent an out-of-home placement prior to entering  
16 into a voluntary placement agreement, including working with  
17 the family to secure services through the Division of Mental  
18 Health, the Division of Developmental Disabilities, the  
19 Department of Healthcare and Family Services, or other  
20 appropriate State or local agency.

21           (c) The Department of Children and Family Services is  
22 prohibited from seeking legal custody of a child under  
23 voluntary placement if the child has a serious mental illness,  
24 serious emotional disturbance, or developmental disability and  
25 the purpose of the voluntary placement is to obtain treatment

1 or care related to the child's disability in the out-of-home  
2 placement.

3 (d) The Department of Children and Family Services shall  
4 adopt rules to implement the voluntary placement program,  
5 including, but not limited to:

6 (1) the voluntary placement agreement process;

7 (2) assessing the voluntary placement agreement;

8 (3) outlining parental or guardian rights and  
9 responsibilities for children voluntarily placed under  
10 this Act to maximize parental or guardian participation in  
11 the child's recovery and family reunification as soon as is  
12 best for the child, including but not limited to, parental  
13 or guardian involvement in the child's care,  
14 decision-making authority, involvement in care planning  
15 meetings, maintenance of health care coverage, and  
16 reasonable child support;

17 (4) juvenile court requirements for children under a  
18 voluntary placement agreement to ensure Title IV-E of the  
19 federal Social Security Act reimbursement when applicable;

20 (5) terminating a voluntary placement agreement;

21 (6) administrative issues and reporting requirements;

22 and

23 (7) any other rules necessary to implement a voluntary  
24 placement program to carry out this Act.

25 (e) The out-of-home placement may not exceed 180 days  
26 without juvenile court approval. A child may remain in an

1 out-of-home placement under a voluntary placement agreement  
2 under this Act for more than 180 days only if the child's  
3 disability necessitates care or treatment in the out-of-home  
4 placement and a juvenile court finds that continuation of the  
5 placement is in the best interests of the child. Rules shall  
6 set the interval for which juvenile court approval is needed  
7 beyond 180 days.

8 (f) Abandonment at a psychiatric hospital or similar  
9 facility shall not constitute grounds for a finding of abuse or  
10 neglect under certain circumstances. If a parent or guardian  
11 refuses to take a child home from a psychiatric hospital or  
12 other similar facility that indicates the child can be treated  
13 at home and the parents or guardian report they are unable or  
14 unwilling to take the child home because of a reasonable fear  
15 for the safety of the child or other family members, the  
16 Department of Children and Family Services shall determine  
17 whether the alleged fear is reasonable under the circumstances.  
18 If it is determined to be reasonable, the Department of  
19 Children and Family Services shall not use the circumstances as  
20 a basis for an indicated finding of abuse or neglect.

21 (g) The inability of a parent to care for a child with a  
22 serious mental illness, serious emotional disturbance, or  
23 developmental disability shall not in itself be the basis for a  
24 finding of abuse or neglect.

25 (h) Exception to reporting on the State Central Register  
26 for Child Abuse and Neglect. Parents or guardians who refuse to

1 take a child home from a psychiatric hospital or other similar  
2 facility because of a reasonable fear for the safety of the  
3 child or other family member shall not be placed on the State  
4 Central Register for Child Abuse and Neglect if the Department  
5 of Children and Family Services has determined that the fear  
6 was reasonable.

7 (i) A State employee or agent shall not communicate to a  
8 parent in any manner that the State will provide different or  
9 additional mental health services of any kind to that parent's  
10 child if the child is found to be dependent or neglected or if  
11 the parent surrenders custody of that child to the State.

12 (j) Annual review by the Community and Residential Services  
13 Authority. The Department of Children and Family Services shall  
14 refer all cases voluntarily placed under this Act to the  
15 Community and Residential Services Authority for review as soon  
16 as the child is voluntarily placed to enable the Authority to  
17 annually review why cases were voluntarily placed in the  
18 Department of Children and Family Services rather than a more  
19 appropriate agency for treating the child's disability. The  
20 Community and Residential Services Authority shall submit an  
21 annual report to the General Assembly on whether the number of  
22 cases voluntarily placed during the year were appropriate cases  
23 for voluntarily placement, why placement under the Division of  
24 Mental Health, the Division of Developmental Disabilities, and  
25 the Department of Healthcare and Family Services did not occur  
26 and recommendations for reducing the number of voluntary

1 placements for purposes of treatment of a serious mental  
2 illness, serious emotional disturbance, or developmental  
3 disability.